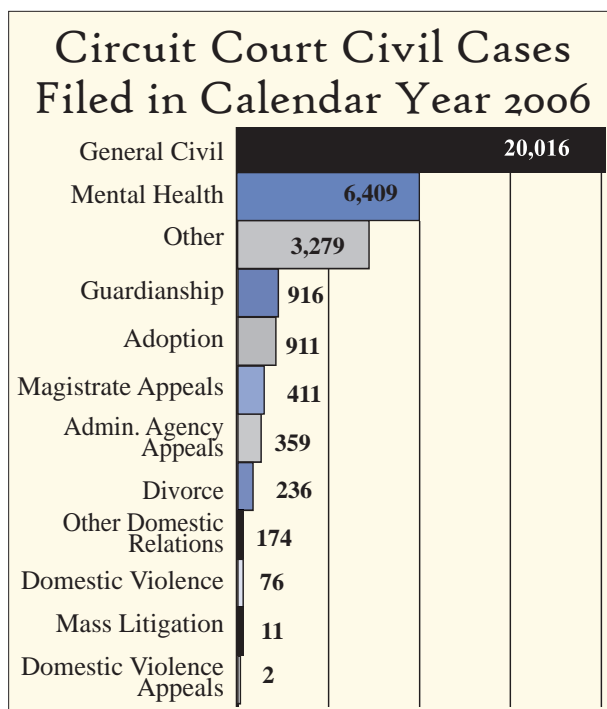


# Circuit Courts



West Virginia's 55 counties are divided into 31 circuits with 66 judges. The circuits vary in size; one has seven judges while eleven have one judge each. While every county has a courthouse where a judge presides, a single circuit can be comprised of up to four counties.

Each judge has a law clerk, a secretary, and a court reporter.

The circuit courts are trial courts of record. They have jurisdiction over all civil cases in which more than \$300 is at issue; all cases in equity; proceedings in *habeas corpus*, *mandamus*, *quo warranto*, *prohibition* and *certiorari*; and all felonies and misdemeanors.

Circuit courts receive appeals from magistrate courts, municipal courts, and all administrative agencies except from the Division of Workers' Compensation. Workers' compensation appeals go directly to the Supreme Court of Appeals.

Circuit courts also can hear appeals of family court rulings, but both parties can agree to appeal domestic relations decisions directly to the Supreme Court. Additionally, circuit judges receive recommended orders from judicial officers who hear mental health hygiene and juvenile matters.

In 2007, a total of 49,589 cases were filed in West Virginia's circuit courts. Of that, 32,800 filings were in civil cases, 8,884 were criminal cases, and 7,905 were juvenile matters.

## Child Abuse and Neglect Overlap Cases

Family courts are courts of limited jurisdiction. Family courts specialize in civil cases involving families such as divorce, child custody, grandparent and sibling visitation, infant guardianship, child support, establishment of paternity, and domestic violence protective orders.

Circuit courts, however, have sole jurisdiction over adoption and child abuse and neglect cases.

In some cases before family court judges, parties make allegations involving abuse and neglect, or they may already be parties in child abuse and neglect cases pending in circuit

court. Therefore, there is some "overlap" of cases between the two courts.

Although family court judges are mandatory reporters of child abuse and neglect, there were sometimes gaps in communication between family courts, the West Virginia Department of Health and Human Resources' Child Protective Services, and circuit courts about family courts' reports of suspected child abuse and neglect. To coordinate the process so there is increased protection of children, the Supreme Court of Appeals adopted the "Overlap Rules" – Rules 48 and 48a of the Rules of Practice and Procedure for Child Abuse and Neglect – in April 2006.

Under the "Overlap Rules," a family court judge who suspects child abuse and/or neglect in a pending case issues a written referral to the local Child Protective Services Office, with a copy to the circuit court and the local prosecuting attorney. The circuit court issues a Juvenile Administrative Order (JAA) directing Child Protective Services to assess the referral and make a written investigation report to circuit court, with a copy to family court, within 45 days. If Child Protective Services fails to issue a written report within 45 days, or indicates in its written report that filing a child abuse and neglect petition is not necessary and the circuit judge disagrees, then the circuit judge may treat the family court written referral as a petition for a writ of mandamus (Juvenile Administrative Order where Mandamus was issued, or JAM), requiring Child Protective Services to come before the circuit judge to explain the delay or the failure to file a petition to terminate parental rights. Even though the family court judge issued the written referral, the family court retains jurisdiction of the case on all issues until a petition to terminate parental rights is filed.

Under another scenario, a third party other than the parents may request to be the guardian of a child. This action can originate in family court (Family Infant Guardianship, or FIG) or circuit court (Circuit Court Infant Guardianship, or CIG). If the case originates in family court and the family court judge suspects there has been child abuse and neglect, the family court judge submits a written referral to Child Protective Services, and the guardian case is removed to circuit court (Circuit Court Infant Guardianship Removed, or CIGR). This type of removed case stays in circuit court until completed and does not return to family court.

The West Virginia Supreme Court of Appeals began collecting data on abuse and neglect overlap cases in June 2006. Statistics were simply compiled on the number of petitions filed. However, the project was expanded during 2007 with a new Administrative Order component within the Child Abuse and Neglect Database. Data within that section of the database provide more detail on juvenile administrative orders and juvenile administrative orders where a mandamus is issued. For more information on this project, please see the Child Abuse and Neglect Database section of this report.

For the calendar year 2007, the following petitions were filed:

Juvenile Administrative Order (JAA)	642
Juvenile Administrative Order where Mandamus was issued (JAM)	6
Family Infant Guardianship (FIG)	651
Circuit Court Infant Guardianship (CIG)	332
Circuit Court Infant Guardianship Removed (CIGR)	62

# Circuit Court County Filings

	2007	2006	2005	2004	2003	2002	2001	2000	1999
Barbour	306	308	202	213	209	251	410	361	370
Berkeley	2,715	2,526	2,514	2,112	1,927	1,725	2,676	1,930	2,267
Boone	824	750	531	656	731	551	1,261	1,083	1,079
Braxton	321	326	342	279	279	253	462	404	387
Brooke	600	751	597	606	983	575	1,520	1,676	1,554
Cabell	3,897	3,859	3,915	3,867	3,803	3,628	5,229	5,067	4,739
Calhoun	136	128	139	130	109	96	220	202	240
Clay	242	182	296	263	226	209	369	361	580
Doddridge	137	132	146	151	121	114	182	204	173
Fayette	947	915	878	848	775	815	1,349	1,252	1,317
Gilmer	147	131	142	83	111	56	135	139	127
Grant	224	265	200	222	243	140	315	244	246
Greenbrier	881	903	964	948	917	751	1,319	1,203	1,090
Hampshire	471	464	477	369	344	334	572	572	492
Hancock	680	683	688	684	713	710	947	856	924
Hardy	292	286	286	321	243	229	390	406	327
Harrison	1,816	1,614	1,602	1,623	1,545	1,757	2,379	1,466	2,294
Jackson	469	437	393	397	395	337	726	535	633
Jefferson	972	936	884	926	925	834	1,315	1,252	1,103
Kanawha	5,358	4,806	4,586	5,634	6,448	6,687	9,460	8,595	7,926
Lewis	815	729	777	693	670	657	916	959	907
Lincoln	669	636	685	694	630	625	613	*	591
Logan	1,260	1,389	1,402	1,415	1,312	1,274	2,119	1,700	1,721
Marion	1,487	1,432	1,451	1,431	1,276	1,431	1,740	1,694	2,023
Marshall	1,025	972	880	874	946	905	1,227	1,081	1,155
Mason	632	605	671	663	2,408	342	1,034	672	870
McDowell	712	705	746	641	719	735	1,242	1,106	1,098
Mercer	2,441	2,662	2,413	2,305	2,201	2,040	2,918	2,408	2,453
Mineral	673	535	294	404	544	327	711	519	736
Mingo	1,008	1,048	1,060	850	831	603	1,522	1,558	1,507
Monongalia	1,828	1,896	1,726	1,672	1,837	1,737	2,307	2,174	2,114
Monroe	277	212	186	225	163	150	372	670	462
Morgan	424	356	346	319	407	280	498	464	434
Nicholas	773	713	721	644	620	658	1,043	1,009	910
Ohio	1,443	1,371	1,577	1,358	1,343	1,029	1,498	2,573	1,529
Pendleton	89	116	121	116	133	132	172	170	130
Pleasants	151	275	244	228	259	279	187	181	190
Pocahontas	238	221	232	257	237	235	348	327	300
Preston	714	663	650	608	481	565	848	828	800
Putnam	1,096	1,062	1,196	1,205	1,057	1,113	1,941	1,537	1,369
Raleigh	2,389	2,583	2,496	2,621	1,632	2,244	3,255	2,750	2,781
Randolph	822	775	748	747	705	729	1,085	1,005	936
Ritchie	239	185	232	184	177	149	275	268	233
Roane	327	373	328	256	263	240	414	413	393
Summers	341	257	320	292	301	289	459	368	377
Taylor	490	511	503	429	486	393	536	540	520
Tucker	200	125	177	141	115	141	215	219	240
Tyler	191	178	152	182	160	140	243	226	215
Upshur	481	466	429	461	455	423	761	573	624
Wayne	1,358	1,117	1,112	985	1,036	1,033	1,554	1,284	1,274
Webster	216	183	192	226	171	148	294	174	330
Wetzel	454	392	1,793	380	387	345	515	463	508
Wirt	106	92	67	157	107	104	144	157	123
Wood	2,230	2,133	2,186	2,263	2,038	2,036	2,916	2,611	2,569
Wyoming	555	628	640	632	618	587	919	898	1,021
<b>TOTAL</b>	<b>49,589</b>	<b>47,998</b>	<b>48,535</b>	<b>46,890</b>	<b>47,772</b>	<b>44,170</b>	<b>68,077</b>	<b>61,387</b>	<b>61,311</b>

\*Lincoln County did not report Circuit Court filings for 2000.

The decrease in total filings in 2002 is attributed to the creation of new Family Courts in January 2002. Before 2002, the family law master system caseload appeared on the Circuit Court caseload. Please refer to Page 42 for the Family Court caseload.

In 2003, the total Circuit Court caseload included Family Court appeals.